

EXTENSION OF TIME ON PERMITS AND CHANGE AUTHORIZATIONS

Resource Contact: Coordination and Hydrology Section

Effective Date: 10-31-91

Revised 10-31-91

References: RCW 90.03.320, RCW 90.44.060, RCW 90.03.380, RCW 90.44.100

Purpose: To provide guidance to program personnel in granting extension of time in any of the development phases of a permit or within authorizations for change of water right.

Application: This procedure applies to all requests for extensions of time and the granting or denial of the request received pursuant to RCW 90.03.320 or 90.44.060 and development periods associated with change authorizations pursuant to RCW 90.03.380 and RCW 90.44.100.

1. Extensions of time on permits are requested in writing

Every extension of time for a development phase of a permit must be requested in writing. The applicant must provide good cause for needing the extension, and demonstrate the due diligence and good-faith efforts made to comply with the original construction schedule. The proper statutory extension fee must accompany the extension request.

Definitions:

Good Cause is a substantial reason and depends upon the circumstances of each permit decision.

Good Faith is a sincere desire to complete the project by the permittee and encompasses an honest intent, and the absence of design to defraud.

Due Diligence is such a measure of prudence and activity as is properly expected and reasonable depending on the circumstances of each permit decision.

2. Granting extensions of time on permits

It is at the discretion of the regional section supervisor to judge the good faith, due diligence and good cause of the permittee. Extensions may be granted for additional time periods as may be reasonably necessary to complete the project, having due regard to the good faith of the applicant and the public interests affected.

Time limitations used in extensions shall take into account the complexity of the project. Generally permits are extended on a year by year basis, but longer time periods may be used when warranted. The number of years to put water to complete beneficial use should generally not be extended for more years than the original development schedule.

When granting any extension beyond the first year, set specific reasonable goals that will be required of the permittee during the extension period.

3. Denying extensions of time on permits

Requests for an extension of time on permit development shall be denied if the applicant has not demonstrated good faith and diligence in meeting the construction schedule.

Denials must be based upon the permittee's failure to comply with the construction schedule and inability to timely complete the project.

If an extension of time request is denied, either:

- a. Initiate cancellation of the permit, or
- b. Initiate certification of the developed portion of the permit.

4. Format of an extension or denial

Extensions or denials of additional time to perfect water use under a permit are issued in letter format, and is an appealable action. The appeal can be from either the permittee or the general public. Extensions or denial of an extension request shall be signed by the regional section supervisor and contain the following paragraph:

Any person feeling aggrieved by this action may obtain review there of by application, within thirty (30) days of receipt of this order, to the Washington Pollution Control Hearings Board, 4224 6th Avenue SE, Building 2, Rowe Six, P.O. Box 40903, Lacey; Washington 98504-0903. Concurrently send to the Director of the Department of Ecology, Mail Stop 7600, P.O. Box 47600, Olympia, Washington 98504-7600, a copy of the application for review. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Hedia Adelsman
Program Manager
Water Resources Program

Special Note: These policies and procedures are used to guide and ensure consistency among water resources program staff in the administration of laws and regulations. These policies and procedures are not formal administrative regulations that have been adopted through a rule-making process. In some cases, the policies may not reflect subsequent changes in statutory law or judicial findings, but they are indicative of the department's practices and interpretations of laws and regulations at the time they are adopted. If you have any questions regarding a policy or procedure, please contact the department.